

**STATE OF LOUISIANA
RULES AND REGULATIONS**

**TO IMPLEMENT
ACT 645 OF 1978**

STATE WATER BOTTOM MANAGEMENT

**(As defined in L.R.S. 41:1131
and L.R.S. 41:1701 through 1714)**

**Revised
August 1998**

**DIVISION OF ADMINISTRATION
STATE LAND OFFICE
P.O. BOX 44124, CAPITOL STATION
BATON ROUGE, LOUISIANA 70804**

I. PROCEDURE AND REQUIREMENTS FOR RECLAMATION PROJECTS

CLASS A: Permits for reclamation of lands lost through erosion on or after July 1, 1921.

CLASS E: Permits to construct landfills upon non-eroded state lands.

A. RECLAMATION PROJECTS

Permits may be granted to owners of land contiguous to and abutting navigable water bottoms belonging to the State to construct landfills either for the purpose of reclaiming or recovering land lost through erosion by action of the water body if said erosion occurred on and after July 1, 1921, or for the purpose of maintaining an encroachment on non-eroded state lands. Lands reclaimed will be subject to the procedures as set forth in ~~A~~Boundary Agreements of these Rules and Regulations. Landfills constructed on non-eroded state lands will be subject to the procedures as set forth in ~~A~~Leases of these Rules and Regulations.

B. SUBMITTING PROCEDURES

Applicants shall notify the Commissioner of the Division of Administration in writing of his intent to apply for a permit for work contemplated. Such letters shall contain a description of the proposed physical work to be performed, materials to be used and identity of the body of water involved. Upon receipt of applicant's letter, the Commissioner shall forward the appropriate permit form to the applicant with a copy of these regulations. Upon completion of the appropriate form the applicant shall:

1. Apply to the governing authority of the parish or parishes within which the work or structures will be located for their approval or permit for the project;
2. Apply to the U.S. Corps of Engineers for the appropriate federal permit, and in the event that the Corps of Engineers declines jurisdiction over the proposed work, and does not publish notice, the applicant, upon request of the governing authority of the parish, shall cause to have published at least once, notice of the application in the parish or parishes.

C. FEES

1. An application for a Class A or E permit shall be accompanied by a non-refundable administrative and processing fee of fifty dollars (\$50.00);
2. In the event that review of the application requires special work in the field such as special field examination or survey, the applicant shall be required to pay for such special work, the price of which shall be fixed by the Commissioner based on his estimate of the cost of special work to the state. The Commissioner shall notify the applicant of the estimated cost of such special work and shall not proceed until the estimated cost of same is paid.

D. APPLICATION REQUIREMENTS FOR CLASS A OR E PERMITS

Applications must be submitted in triplicate to the Commissioner of the Division of Administration, and each application must include the following:

- _____ 1. Letter of intent along with application form as provided by the Division of Administration;
- _____ 2. Approval of the parish governing authority for the project;
- _____ 3. A certified deed of ownership*(of lands contiguous to public lands);
- _____ 4. If the applicant is not the owner, a certified copy of the deed or other instrument* under which the owner holds title plus written permission for the applicant to carry out the project. Note: Should the encroachment be located wholly upon state water bottoms and not proximate to any bank or shore, no deeds of ownership or written permission need be furnished provided that the letter of intent contain details of ingress and egress for such structure;
- _____ 5. Map or plat showing:
 - a. Location of the activity site including section, township and range;
 - b. Louisiana Grid Coordinates of all corners and angle points;
 - c. Name of waterway;
 - d. All applicable political (parish, town, city, etc.) boundary lines;
 - e. Name of and distance of local town, community or other identifying location;
 - f. Names of all roads in the vicinity of the site;
 - g. Graphic scale;
 - h. North arrow.
- _____ 6. Plan view showing:
 - a. Existing shorelines;
 - b. Ebb and flow in tidal waters and direction of flow in rivers;
 - c. Mean high water line;
 - d. Mean low water line;
 - e. Water depth around the project
 - f. Extent of land area reclaimed or filled shown in square feet;
 - g. Extent of encroachment beyond applicable water lines;
 - h. Waterward dimensions from an existing permanent structure or object;
 - i. Location of structures, if any, in navigable water immediately adjacent to the proposed activity.
- _____ 7. Elevation and/or section view showing:
 - a. Same water elevations as in the plan view;
 - b. Depth at waterward face of proposed work;
 - c. Dimensions from applicable water lines for proposed float or pile supported platform;
 - d. Graphic or numerical scale;
 - e. Detailed drawings of construction including plot plan, cross section and profile.
- _____ 8. Non-refundable administrative and processing fee of fifty dollars (\$50.00).
- _____ 9. Class A Permits must be followed by a Boundary Agreement and Class E Permits must be followed by a lease agreement.
- _____ 10. Certified survey signed and stamped by a licensed surveyor with a written legal description of property prior to and after reclamation project is complete.

(Must include any surveys that are referenced on submitted survey).

*Only one (1) certified copy of deed or instrument is required.

E. SURVEY REQUIREMENT

Where a permit application contemplates any form of landfill or reclamation, the map or plate submitted must be prepared by a professional land surveyor currently registered by the State Board of Registration for Professional Engineers and Land Surveyors.

F. VERIFICATION OF WORK

Upon completion of the project, the applicant is required to submit verification of the work completed to the Commissioner of the Division of Administration within 60 days. The applicant is required to submit a final certified map or plat prepared by a professional land surveyor currently registered by the State Board of Registration for Professional Engineers and Land Surveyors as verification.

G. BOUNDARY AGREEMENTS AND LEASES

1. After fulfilling the requirements for verification of work completed pursuant to a Class A reclamation permit, the applicant and the Commissioner of the Division of Administration shall enter into an agreement fixing the definitive boundary between the reclaimed land area and the water bottoms. No definitive boundary shall be fixed nor shall title be vested unless and until proof is made that the reclaimed land is raised to a minimum height of six (6) inches above mean high water and is stabilized along the newly created bank or shore by masonry, concrete mats, riprap, sheet piling, bulkheads, or similar constructions to reasonably insure permanence as required by law.
2. **Upon completion of a Class E permit construction and verification, a lease is required as follows:**
 - a. After fulfilling the requirements for verification of work completed pursuant to a landfill the applicant and the Commissioner of the Division of Administration shall enter into a lease agreement to operate or maintain the encroachment. Such leases will not be subject to competitive bidding except in those cases where the best interest of the state and applicant will be served. The consideration for such leases shall be based upon the size and nature of the encroachment. The lease shall be assessed at 5% of the appraised value of the land for noncommercial use and at 7.5% of the appraised value for commercial uses with a minimum fee of \$100 per year. The property will be reappraised at the expiration of the primary term of the lease.
 - b. Leases entered into shall be for a term of five (5) years and subject to renewal by lessee for nine (9) successive terms. In no case shall the maximum term of such leases exceed fifty (50) years. At the end of a fifty (50) year maximum period, lessees may apply for a new lease for the subject encroachment.

II. PROCEDURES AND REQUIREMENTS FOR PERMITTING AND LEASING ENCROACHMENTS ONTO STATE OWNED PROPERTY

CLASS B: Permits to construct bulkheads or flood protection structures in proximity to the bank or shore.

CLASS C: Permits to construct commercial wharves and piers.

CLASS D: Permits to construct structures other than wharves and piers.

A. PERMITS AND LEASES

A Class B Permit shall be issued to construct bulkheads or flood protection structures in proximity to the bank or shore. Permits and leases may also be granted for the construction and/or maintenance of commercial structures which are permanently attached to public lands by pilings or other means. Such structures will include, but not be limited to wharves, piers, storage docks, camps, warehouses, residences, bulkheads, restaurants, dams, bridges, etc. A Class C permit shall be issued to construct wharves and piers and a Class D Permit shall be issued for those structures other than wharves and piers. Exempted from permit and lease requirements are commercial and noncommercial wharves and piers less than 50 linear feet whose surface area does not exceed 150 square feet, unless part of another encroachment or unduly interferes with public interest, navigation or fishery. Structures constructed on state lands will be subject to the procedures as set forth in ALeases@of these Rules and Regulations.

B. SUBMITTING PROCEDURES

Applicant shall notify the Commissioner of the Division of Administration in writing of his intent to apply for a permit for work contemplated. Such letter shall contain a description of the proposed physical work to be performed, materials to be used and identity of the body of water involved. Upon receipt of applicant's letter, the Commissioner shall forward the appropriate permit form to the applicant with a copy of these regulations. Upon completion of the appropriate form the applicant shall:

1. Apply to the governing authority of the parish or parishes within which the work or structures will be located for their approval or permit for the project;
2. Apply to the U.S. Corps of Engineers for the appropriate federal permit, and in the event that the Corps of Engineers declines jurisdiction over the proposed work, and does not publish notice; the applicant, upon request of governing authority of the parish shall cause to have published at least once, notice of the application in the parish or parishes.

C. FEES

1. An application for a permit shall be accompanied by a non-refundable administrative and processing fee of ten dollars (\$10.00);
2. In the event that review of the application requires special work in the field such as special field examination or survey, the applicant shall be required to pay for such special work, the price of which shall be fixed by the Commissioner based on his estimate of the cost of special work to the state. The Commissioner shall notify the applicant of the estimated cost of such special work and shall not proceed until the estimated cost of same is paid.

D. APPLICATION REQUIREMENTS FOR CLASS B, C, OR D PERMITS

Applications must be submitted in triplicate to the Commissioner of the Division of Administration, and each application must include the following:

- _____ 1. Letter of intent along with application form as provided by the Division of Administration;
- _____ 2. Approval of the parish governing authority for the project;
- _____ 3. A certified deed of ownership* (of the lands contiguous to public lands);
- _____ 4. If the applicant is not the owner, a certified copy of the deed or other instrument* under which the owner holds title plus written permission for the applicant to carry out the project. NOTE: Should the encroachment be located wholly upon State water bottoms and not proximate to any bank or shore, no deed of ownership or written permission need be furnished provided that the letter of intent contain details of ingress and egress for such structure;
- _____ 5. Map or plat showing:
 - a. Location of the activity site including section, township and range;
 - b. Name of waterway;
 - c. All applicable political (parish, town, city, etc.) boundary lines;
 - d. Name of and distance of local town, community or other identifying location;
 - e. Names of all roads in the vicinity of the site;
 - f. Graphic scale;
 - g. North arrow.
- _____ 6. Plan view showing:
 - a. Existing shorelines;
 - b. Ebb and flow in tidal waters and direction of flow in rivers;
 - c. Mean high water line;
 - d. Mean low water line;
 - e. Water depth around the project;
 - f. Extent of encroachment beyond the applicable water lines;
 - g. Waterward dimensions from an existing permanent fixed structure or object;
 - h. Location of structures, if any, in navigable water immediately adjacent to the proposed activity.
- _____ 7. Elevation and/or section view showing:
 - a. Same water elevations as in the plan view;
 - b. Depth at Waterward face of proposed work;
 - c. Dimensions from applicable water lines for proposed load or pile supported platform;
 - d. Graphic or numerical scale;
 - e. Detailed drawings of construction including plot plan, cross section and profile.
- _____ 8. Non-refundable administrative and processing fee of ten dollars (\$10.00).
- _____ 9. All Class C and D permits must be followed by a lease agreement.

*Only one (1) certified copy of deed or instrument is required.

E. CORP OF ENGINEERS

If the proposed project falls under the United States Army Corps of Engineers jurisdiction and permit(s) are being sought from that agency, the applications submitted to the Corps of Engineers may be submitted to the Division of Administration in lieu of the above, providing that all copies are clear and legible and the Corps permit application does in fact contain all of the information described above.

F. LEASES

1. All Class C and D permits are accompanied by a lease agreement described as follows:
 - a. After fulfilling the requirements for a structure permit, the applicant and the Commissioner of the Division of Administration shall enter into a lease agreement to operate or maintain the encroachment. Such leases will not be subject to competitive bidding except in those cases where the best interest of the State and applicant will be served. The consideration for such leases shall be based upon the size and nature of the encroachment.
 - b. Annual rentals on leases for commercial wharves, piers, and other structures issued pursuant to R.S. 41:1701-1714 lying outside of the jurisdiction of deep water port commissions shall be levied at two (2) cents per square foot of State owned land or water bottom enclosed or utilized by the structures and associated vessels. Those lands so utilized shall include the pier, wharf or dock itself, all associated piles, dolphins, structures, and waters adjacent and contiguous to the above structures occupied by vessels docking at said structures. The waters so utilized by vessels and included in the lease shall be measured in 10' increments adjacent and adjoining the structures (10, 20, or 30 feet) depending upon the size of the vessels docking at that particular pier, dock or wharf. Any contiguous area of water where boats may be moored shall be assessed according to the following schedule:
 - i. boats less than 35 feet in length require a 10 foot wide berthing;
 - ii. boats 35 to 75 feet in length require a 20 foot wide berthing;
 - iii. boats greater than 75 feet in length require a 30 foot wide berthing.
2. In no instance shall the consideration be less than one hundred (\$100) dollars per annum.
3. Leases entered into shall be for a term of five (5) years and subject to renewal by lessee for nine (9) successive terms. In no case shall the maximum term of such leases exceed fifty (50) years. At the end of fifty (50) year maximum period, lessees may apply for a new lease for the subject encroachment.

III. GENERAL REGULATIONS REGARDING ALL PERMITS

A. APPROVAL OF LOCAL AND OTHER STATE AUTHORITIES--

No permits shall be issued nor shall any work commence until the application has first been approved by the governing authority of the parish wherein the property is located, Office of Public Works, Department of Wildlife and Fisheries, State Mineral Board, Coastal Management Section (if the project is in the coastal zone) and such other parochial or State agencies which may have jurisdiction over such matter. Coordination and dissemination among the several agencies will be performed by the Commissioner of the Division of Administration.

B. OBJECTIONS AND PUBLIC HEARINGS--

1. Objections shall be received by the Commissioner of the Division of Administration for a period of thirty (30) days from date of published notice, to correspond with the delays established by the U.S. Corps of Engineers. In the event that opportunity for public hearing is deemed necessary by either the State, through the Commissioner of the Division of Administration, or the U.S. Corps of Engineers, all efforts will be made by the State to accommodate the applicant by holding one hearing together with the federal authorities at whatever time and place the latter stipulates.
2. At the end of the prescribed period for objections, or after the public hearing if necessary, the governing authority of the parish or parishes shall either approve or object to the application, with reasons, and forward their determination to the Commissioner of the Division of Administration, together with all required attachments and evidence of publication of notice by either the Corps of Engineers or the applicant, for processing as provided herein.

C. REASONS FOR DENIAL OR LIMITATION--

No reclamation, encroachment of lease shall be allowed if in the determination of the Office of Public Works, Department of Wildlife and Fisheries, State Mineral Board or the Commissioner of the Division of Administration, such activity would obstruct or hinder the navigability of any waters of the State, impose undue or unreasonable restraints on the State or public rights which have vested in such areas pursuant to Louisiana law, or result in unacceptable adverse impacts to the environment of the coastal zone, and to that extent the land area sought to be reclaimed, or the structure or construction, may be limited.

D. HOLD HARMLESS--

All permits and leases approved and issued hereunder shall be conditioned upon applicant's agreement to hold the State of Louisiana and her agencies and subdivisions harmless for applicant's acts or omissions in reclaiming and maintaining eroded lands and constructing or maintaining any structures and bulkheads, though the permit or lease for the same subsequently expires or is revoked.

E. ENCUMBRANCES--

A permit will be issued subject to and encumbered with any right-of-way or servitude, or any mineral, geothermal, geopressure, or any other lease acquired or granted by the State for a lawful purpose while the reclaimed land was an eroded area. Nothing in these regulations shall prevent the leasing of State lands or water bottoms for mineral or other purposes.

F. MAXIMUM PERMIT TERM--

All permits issued pursuant to these provisions shall be effective for a period not to exceed two (2) years from the date of issuance and shall thereupon expire. All work remaining or any additional work may be completed only by a new permit application.

G. VESTED RIGHTS--

No permit or lease shall be construed to vest any proprietary rights or title in any private owner except as to lands actually reclaimed and maintained, pursuant to Act 645 of 1978. Eroded lands contiguous to the coast of the Gulf of Mexico as defined in the Decree of the United States Supreme Court dated July 16, 1975, in *United States v. Louisiana*, No. 9 Original, may be reclaimed under reclamation permits, out to the coastline.

H. COPIES TO LOCAL GOVERNMENTS--

A copy of the permit issued, along with the pertinent plats attached and the documentation required to be submitted sixty (60) days after completion of work shall be filed with the clerk of court of the parish or parishes affected. A copy of the above shall also be furnished the assessor of the parish or parishes for assessment purposes.